

REMARKS

Favorable reconsideration and allowance of the subject application are respectfully requested. Claims 1-15, 17, and 20-25 are pending in the present application, with claims 1, 6, 7, 8, 13, 14, 15, 20, 21, 22, 23, and 25 being independent. Claims 16, 18, and 19 have been cancelled by this amendment without prejudice or disclaimer to the subject matter contained therein. Claims 24-25 have been added, which does not add any new subject matter.

Claim Rejections under 35 U.S.C. §102

The Examiner rejected claims 1-23 under 35 U.S.C. §102(e) as being anticipated by Chern et al. (US 6,456,854). This rejection is respectfully traversed insofar as it pertains to the presently pending claims.

Chern et al. is directed to a system and method for locating mobile telephone devices via the Web. The mobile telephone device obtains and provides its location to a Web server in GPS latitude and longitude format.

Applicant respectfully submits that Chern et al. fails to teach or suggest at least a cellular phone that has a server for operating the controller according to the request, whereby the cellular phone is connected to the controller, as recited in the independent claims.

The Examiner broadly alleges that col. 4 , lines 19-65, and col. 5, line 9, to col. 6, line 66, teaches this feature. Referring to those cited sections, Chern et al. merely teaches that a server 136 is connected to a wireless handset 130 via a wireless network 140, and that the handset 130 is connected to a position determination system 134 that provides the

handset 130 with GPS information. This GPS information is then provided to the server 136.

Chern et al., however, does not contain any teaching that the position determination system 134 is controlled by the handset 130 based on a request outputted by the server 136. Referring to col. 7, lines 54-58, of Chern et al. it is taught that the mobile unit (wireless handset 130) acquires its GPS location "using any of several methods that are well known in the art." Chern et al. does not explicitly teach that the handset 130 operates the GPS unit. In other words, the position determination system 134 appears to provide a constant position information signal to the handset 130, without the handset 130 specifically operating the position determination system 134.

MPEP 2131 specifically states that "to anticipate a claim, the reference must teach every element of the claim. In other words, in order for a prior art reference to anticipate a claim, the reference must disclose each and every element of claim with sufficient clarity to prove its existence in prior art, since this disclosure requirement presupposes knowledge of one skilled in art of the claimed invention, but such "presumed knowledge does not grant a license to read into prior art reference teachings that are not there," see *Motorola Inc. v. Interdigital Technology Corp.* USPQ2d 1481, 1490 (Fed. Cir. 1997), emphasis added.

Moreover, referring to MPEP 2112 it specifically states, that:

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. In re Rijckaert, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993)... "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'" In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir.

1999).

Thus, because Chern et al. does not teach or suggest that a cellular phone includes a server for operating a controller according to a request that is provided by a terminal via a network, Chern et al. does not anticipate at least independent claims 1, 6, 7, 8, 13, and 14.

Independent claims 15 and 20 have been amended in an effort to clarify that the cellular phone connects to a controller for controlling a device and that the device is controlled according to the first request. As stated above, Chern et al. provides absolutely no teaching that the handset 130 controls the position determination system 134. In other words, as stated above, the handset 130 merely acquires (receives) GPS information from the position determination system 134.

Independent claims 21-23 should be considered allowable at least because Chern et al. does not teach or suggest that a cellular phone is used as a mechanism for communication between a device and a terminal, whereby the terminal manages/controls the device. As repeatedly stated above, the server 136 of Chern et al. does not manage or control the position determination system 134. Thus, claims 21-23 are not anticipated by Chern et al.

Dependent claims 2-5, 9-12, 17 and new dependent claim 24 should be considered allowable at least for depending from an allowable base claim.

Accordingly, Applicant requests that the Examiner withdraw the rejections at least because of the above discussion.

New claim 25 should be considered allowable at least because the cited art fails to teach or suggest the combination of elements including at least that a cellular phone is

connected to the control unit, the cellular phone communicating with a terminal via a network and providing the status data to the terminal and for providing the control unit with the control data that is provided by the terminal.

Conclusion


Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Martin R. Geissler (Reg. No. 51,011) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a one (1) month extension of time for filing a reply in connection with the present application, and the required fee of \$110.00 is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.


Respectfully submitted,

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